

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AIRPRO DIAGNOSTICS, LLC, a
Florida limited liability company,

Case No. 22-12969-LVP-EAS

Plaintiff,

Honorable Linda V. Parker

v.

Magistrate Judge: Elizabeth A.
Stafford

DREW TECHNOLOGIES, INC., a
Michigan corporation, OPUS IVS,
INC., a Delaware corporation,
AUTOENGINEUTY, LLC, an Arizona
limited liability corporation, and
BRIAN HERRON, an individual,

Defendants.

and

OPUS IVS, INC.

Defendant/Counter-Plaintiff,

v.

AIRPRO DIAGNOSTICS, LLC, a
Florida limited liability company,

Plaintiff/Counter-Defendant.

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Ziyad I. Hermiz (P72236)
Francesca L. Parnham (P87300)
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JOINT MOTION TO MODIFY SCHEDULING ORDER

The parties, by and through their counsel, hereby respectfully move this Court to modify the Scheduling Order (Phase I) (ECF Nos. 27, 34) extending the deadlines for Facilitation to Occur and to File Dispositive Motions by sixty (60) days. The current deadline for Facilitation to Occur is November 26, 2024, and the current deadline to File Dispositive Motions is December 17, 2024.

Good cause for the requested extensions exists for the reasons set forth in the parties' Joint Memorandum in Support of their Joint Motion to Modify Scheduling Order. The parties have concurred in the relief requested as required by Local Rule 7.1(a).

WHEREFORE, the parties respectfully request that this Court extend the deadline for Facilitation to Occur through and including January 25, 2025, and that the Court extend the deadline to File Dispositive Motions through and including February 15, 2025.

Dated: November 22, 2024

BY: /s/ Adam J. Brody

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Attorneys for Plaintiff/Counter-Defendant

Dated: November 22, 2024

BY: /s/ Samuel A. Slater

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**JOINT MEMORANDUM IN SUPPORT OF JOINT MOTION TO MODIFY
SCHEDULING ORDER**

Pursuant to Fed R. Civ. P. 16(b)(4), the parties respectfully submit that good cause exists for the requested modification of the Scheduling Order, and request that the Court grant their motion. This request is reasonable and is made to permit the parties sufficient time to prepare for and conduct a meaningful mediation of this case before preparing and filing dispositive motions. The parties believe that the chances of settlement at mediation are reasonable.

APPLICABLE LEGAL STANDARD

“A schedule may be modified only for good cause and with the judge’s consent.” FED. R. CIV. PROC. 16(b)(4). “The primary measure of Rule 16’s ‘good cause’ standard is the moving party’s diligence in attempting to meet the case management order’s requirements.” *See Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002).

ARGUMENT

On September 9, 2024, the parties submitted a proposed Second Stipulated Order for Extension of Deadlines. On September 12, 2024, the Court declined the requested extension, encouraging the parties to complete discovery by November 5, 2024. Consistent with the Court's request, the parties completed discovery on November 5, 2024, which entailed the parties taking thirteen (13) depositions in October and early November. The parties are in the process of reviewing those depositions transcripts, of which there are thousands of pages, and making appropriate confidentiality designations consistent with the Stipulated Protective Order governing this action. (*See* ECF No. 33).

As of September 9, 2024, the date the parties submitted a proposed Second Stipulated Order for Extension of Deadlines, the parties had not stipulated to extending the deadlines in the Scheduling Order more than 90 days. The deadlines in the Scheduling Order still have not been extended more than 90 days, and the parties believe this requested extension of the deadlines for Facilitation to Occur and to File Dispositive Motions is warranted for the good cause shown in this Memorandum. There is not a trial date set at this time.

The Parties have selected a mediator and identified a date—January 15, 2025—that works for all counsel, parties, and the mediator to meet and conduct the facilitation in this case. The parties respectfully submit that, in light of the

voluminous document discovery in this case (over 73,000 pages of documents produced) and the parties' significant efforts undertaken to complete discovery by November 5, 2024, the parties have been reasonably diligent in attempting to meet the requirements of the Scheduling Order. Accordingly, good cause exists for the requested extensions.

Good cause further exists because the parties have a mediation of this case scheduled for January 15, 2025, and have submitted a Stipulated Order to the Court referring this case to mediation. The parties believe settlement prospects at mediation are reasonable, and the parties desire to focus their efforts on potential case resolution before undertaking the significant time and expense associated with dispositive motions.

WHEREFORE, for good cause shown, the parties respectfully request that this Court extend the deadline for Facilitation to Occur through and including January 25, 2025, and that the Court extend the deadline to File Dispositive Motions through and including February 15, 2025.

Dated: November 22, 2024

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CERTIFICATE OF SERVICE

This is to certify that on November 22, 2024, a copy of the foregoing document was electronically filed with the Clerk of the Court using the ECF system which will send notification to all counsel of record.

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